

NPDES Permit No. DC0000221

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
MUNICIPAL SEPARATE STORM WATER SYSTEM PERMIT NO. DC0000221**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. 1251 et seq.

Government of the District of Columbia  
The John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

is authorized to discharge from all portions of the municipal separate storm sewer system owned and operated by the District of Columbia to receiving waters named

Potomac River, Anacostia River,  
and tributaries

in accordance with the upgraded Storm Water Management Program(s), effluent limitations, monitoring requirements and other conditions set forth in Parts I through X herein.

The effective issuance date of this permit is

This permit and the authorization to discharge shall expire at midnight, on

Signed this                      day of

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Jon M. Capacasa, Director  
Water Protection Division  
U.S. Environmental Protection Agency  
Region III

PERMIT FOR THE DISTRICT OF COLUMBIA'S  
MUNICIPAL SEPARATE STORM SEWER SYSTEM

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## X. PERMIT DEFINITIONS

### PART I. DISCHARGES AUTHORIZED UNDER THIS PERMIT

#### A. Permit Area

This permit covers all areas within the corporate boundary of the District of Columbia served by, or otherwise contributing to discharges from, municipal separate storm sewers owned or operated by the District of Columbia.

#### B. Authorized Discharges

This permit authorizes all existing or new storm water point source discharges to waters of the United States from the municipal separate storm water sewer system of the District of Columbia. This permit also authorizes the discharge of storm water commingled with flows contributed by process wastewater, non-process wastewater, or storm water associated with industrial activity provided such discharges are authorized under separate NPDES permits.

Nothing in this permit prohibits the following sources when properly managed so that water quality is not impaired and that the requirements of the Clean Water Act and EPA regulations are met: clear water flows, roof drainage, water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation waters, springs, footing drains, lawn watering, individual resident car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, fire fighting activities, and similar types of activities.

### **C. Limitations to Coverage**

Section 402(p)(3)(B)(ii) of the Clean Water Act specifically prohibits non-storm water entering the MS-4. The Permit does not authorize the Permittee to discharge pollutants from the MS4 as described herein:

#### **1. Non-Storm Water and Phase I and Phase II Storm Water**

Discharges of non-storm water (other than those listed in Part I.B. of this permit) are prohibited except where such discharges are:

- a. Regulated with a General NPDES permit for Phase I or Phase II storm water discharges, or
- b. Regulated with a individual NPDES permit.

2. All other discharges of pollutants to the MS4 system that cause or contribute to the exceedance of the District of Columbia water quality standards are prohibited and not authorized by this Permit.

### **D. Effluent Limits**

1. MEP Effluent Limit - The permittee shall implement the controls, Best Management Practices (BMP), and other activities necessary to reduce pollutants as set forth in the Upgraded Storm Water Management Plan dated October 19, 2002. Unless and until modified consistent with Part VII.P (Reopener Clause for Permits) of this Permit, the Upgraded Storm Water Management Plan requirements expressed in the form of BMPs, represent the controls necessary to reduce the discharge of pollutants to the Maximum Extent Practicable in accordance with 40 CFR Part 122.44(k)(2).

2. WOBEL Effluent Limit - The permittee shall implement the controls, Best Management Practices (BMPs), and other activities necessary to reduce pollutants as set forth in the Upgraded Storm Water Management Plan dated October 19, 2002, and all other requirements of this Permit (including but not limited to the narrative prohibition on discharge of pollutants from the MS4 set forth in I.C. of this Permit). Unless and until modified consistent with Part VII.P (Reopener Clause for Permits) of this Permit, EPA has determined that these controls are sufficient to achieve compliance with applicable water quality standards in accordance with existing Federal rules and regulations.

3. Effluent Limits Consistent with TMDL WLA - The permittee shall implement the controls, Best Management Practices (BMPs), and other activities necessary to reduce pollutants as set forth

in the Upgraded Storm Water Management Plan dated October 19, 2002, and all other requirements of this Permit (including but not limited to the narrative prohibition on discharge of pollutants from the MS4 set forth in I.C. of this Permit). Based on limited information, and until and unless this Permit is modified in accordance with the Reopener Clause of Part VII.P of this Permit, EPA has determined that these controls are appropriate effluent limits consistent with the assumptions and requirements of the approved waste load allocations (WLAs) established in various total maximum daily loads specifically described and discussed in the MS4 Fact Sheet. Based on EPA review of the Permittee's submission of the Total Maximum Daily Loading (TMDL) Implementation Plan(s) as required by Part IX.B. of this Permit, EPA shall reconsider and determine whether these controls are consistent with applicable water quality standards and approved WLAs in accordance with existing Federal requirements. EPA specifically reserves the right to formally modify this Permit's effluent limit in accordance with Reopener Clause of Part VIII.P. of this Permit in the event that EPA determines further controls are necessary to address the WLAs and/or water quality standards.

## **Part II. SOURCE IDENTIFICATION**

During the period beginning on the effective date and lasting through the expiration date of this permit:

The permittee shall continue to compile and submit pertinent information on pollution sources, including significant changes (see EPA's approved definition in First Annual Review dated April 19, 2001) in the identification and mapping of storm sewer system (MS4) outfalls consisting of those identified as "major" and "others" in the upgraded SWMP dated October 19, 2002, and changes affecting the District's separate storm system (MS4) due to: land use activities, population estimates, runoff characteristics, major structural controls, landfills, publicly owned lands, and industries. This information shall be submitted in each of the Annual Reports/Implementation Plans to EPA pursuant to the procedures in Part III of this permit. Analysis of data for these pollution sources shall be reported according to Part V for the Storm Water Model.

## **Part III. STORM WATER MANAGEMENT PROGRAM (SWMP)**

### **A. COMPLIANCE SCHEDULE**

Each year on the effective date of the Permit, the permittee shall provide EPA with a written Annual Report as required by 40 CFR 122.42(c) using the implemented upgraded and amended Storm Water Management Plan dated October 19, 2002 developed by the District as the basis for the Report. In addition to the Annual

Report, the permittee shall at the same time provide EPA with a Discharge Monitoring Report as described in Part IV of this Permit and an Implementation Plan as described in Part III.D of this Permit summarizing how each category of MS4 activities identified within this Permit was implemented during the previous year along with implementation plans for each activity in the following year. As described in Part IX.2 of this Permit, the permittee shall also submit Implementation Plan(s) for the Anacostia River Total Maximum Daily Loads (TMDLs) six months after the effective issuance date of the Permit and for the Rock Creek TMDLs twelve months after the effective issuance date of the Permit. Six months prior to the expiration date of the Permit, the permittee shall provide EPA an Upgraded Storm Water Management Plan (SWMP) as described in Part III.B and E of this Permit. All these efforts, which are identified in Table I below as "submittals", have deadlines and are subject to EPA approval as set forth below at Parts III.E and IX.2.

TABLE 1

Submittal	Deadline
Outfall Discharge Monitoring Report *	Each year on the effective date of the permit (EDOP) consistent with Paragraph IV.A.1.
Annual Report	Each year on the EDOP
Annual Implementation Plan	Each year on the EDOP
Anacostia River TMDL Implementation Plan(s)	6 months after the EDOP
Rock Creek TMDL Implementation Plan(s)	12 months after the EDOP
Upgraded SWMP and MS4 Permit Application	6 months prior to the permit expiration date.

\* Samples shall be taken at least three times a year within the subwatershed being monitored for that particular year as provided in Tables 4 and 5 of Part IV.A.1 of the permit.

Deadlines may be adjusted by written agreement by both EPA and the permittee up to 120 days (see minor modification provision). However, this permit places no obligation on EPA to expand the above schedule. The Outfall Discharge Monitoring Report shall be submitted each year, incorporating the reporting requirements in Part VIII.E.(Reporting of Monitoring Results).

All the requirements in Table 2 in Part III.B of this permit are to be used in the development of the upgraded SWMP. The District's October 19, 2002(upgraded SWMP) is also incorporated by reference into this permit.

#### **B. COMPONENTS OF STORM WATER MANAGEMENT PROGRAM (SWMP)**

The SWMP shall be implemented in a manner consistent with the following guidelines provided for the 12 management plan components. In carrying out the SWMP, the permittee shall issue no exemption, waiver, or variance that would violate the Clean Water Act or EPA regulations. This Permit does not authorize any discharge based on such exemption, waiver, or variance. To the extent that this permit makes reference to or incorporates the District's Storm Water Management Plan (SWMP)(defined in Part X of this permit), that portion of the plan is hereafter incorporated into this permit by reference.

The permittee shall implement the controls, procedures, Best Management Practices (BMPs) set forth in the current Upgraded SWMP dated October 19, 2002 in order to reduce the pollutant load to the extent necessary to meet the requirements of 40 CFR 122.26 (d)(2)(iv) and the provisions of the Clean Water Act for all areas within the District according to Table 2 below. The controls described in the October 19, 2002, document are effluent limitations that EPA has determined are adequate to ensure that the discharges do not cause or contribute to exceedences of applicable water quality standards.

TABLE 2

Required Program Element	Regulatory References (40 CFR 122.26)
Adequate Legal Authority	(d)(2)(I)(C)-(F)
Characterization Data	(d)(2)(iii)(B)-(D), 40 CFR 122.21(g)(7)
Application Requirements	(d)(2)(iv)(A)(1)
Assessment of Controls	(d)(2)(v)
Structural Controls	(d)(2)(iv)(A)(1)
Areas of new development and significant redevelopment	(d)(2)(iv)(A)(2)
Roadways	(d)(2)(iv)(A)(3)
Flood Control Projects	(d)(2)(iv)(A)(4)
Pesticides, Herbicides, and Fertilizers Application	(d)(2)(iv)(A)(6)
Illicit Discharges and Improper Disposal	(d)(2)(iv)(B)(1)-(5), (iv)(B)(7)
Industrial and High Risk Runoff	(d)(2)(iv)(C), (iv)(A)(5)
Identify Priority Industrial Facilities	122.26(d)(2)(iv)(C)(1)
Municipal Waste Sites	(d)(2)(iv)(A)(5)
Spills	(d)(2)(IV)(B)(4)
Infiltration of Seepage	122(d)(2)(iv)(B)(7)
Construction Site Runoff	(d)(2)(iv)(D)



Public Education	(d)(2)(iv)(A)(6), (iv)(B)(5), (iv)(B)(6)
Monitoring Program	(d)(2)(iv)(B)(2), (iii), iv(A), (iv)(C)(2)

Table 3's reporting requirements apply to each of the 12 components of the District's SWMP as defined in Part X of this permit.

TABLE 3

SWMP Component	Reporting Requirement (1)	Reporting Deadline
1. Management Plan for Commercial, Residential, and Government Areas	implement and update in accordance with the October 19, 2002, SWMP	Annual Report/ Implementation Plan
2. Management Plan for Industrial Facilities	implement and update in accordance with the October 19, 2002, SWMP	Annual Report/ Implementation Plan
3. Management Plan for Construction Sites	implement and update in accordance with the October 19, 2002, SWMP	Annual Report/ Implementation Plan
4. Flood Control Projects	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan
5. Monitor and Control of Pollutants from Municipal Landfills or Other Municipal Waste Facilities	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan
6. Monitor and Control Pollutants from Hazardous Waste Sites	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan

7. Pesticides, Herbicide, and Fertilizer Application	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan
8. Deicing Activities	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan
9. Snow Removal	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan
10. Management Plan to Detect and Remove Illicit Discharges	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan
11. Enforcement Plan	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan
12. Public Education	implement and update in accordance with the October 19, 2002 SWMP	Annual Report/ Implementation Plan

(1) These reporting requirements are governed by the schedules presented on Table 1.

#### 1. Management Plan for Commercial, Residential, and Federal and District Government Areas

The District shall implement the SWMP (as described in the District's October 19, 2002, SWMP) to reduce the discharge of pollutants from commercial, Federal and District government owned/operated facilities, and residential areas into the District's storm sewer system (MS4). The permittee shall continue current practices of road, street, and highway maintenance as described in the SWMP and evaluate low impact development practices for inclusion with either new or retrofitted District and/or Federal highway construction projects. Applicable Federal

programs for this purpose include, but are not limited to provisions for funding under the Transportation and Enhancement Fund, the Transportation Equity Act for the 21<sup>st</sup> Century, or other authorized/appropriated funding from future National Transportation Bills.

Control for government, commercial, and residential storm water runoff shall consist of a mix of program activities addressing trash, debris and other storm water pollutants, including but not limited to:

- A shift in focus from just the minimum storm water controls required under local ordinances and guidelines to programs that encourage the use of functional landscape to enhance the aesthetic and habitat value at new parking lots and/or new developments;
- Low impact development practices such as improved tree boxes, reduced road length and width, use of infiltration trenches, porous pavements, grassy swales and filter strips where appropriate;
- A coordinated catch basin cleaning and street-sweeping strategy that optimizes reduction of storm water pollutants;
- Coordination with solid waste program to include leaf collections;
- Preventative maintenance inspections for all existing storm water management facilities;
- Development and implementation of a rain leader disconnection program;
- Development of a phased approach to storm water public education which includes collecting pet feces and environmentally-friendly fertilizing and landscaping techniques;
- Modeling of storm water impacts;
- Developing a simple method for measuring the performance of these activities; and
- Strengthening the erosion control program for new construction.

The permittee shall implement a program to control storm water discharges from Federal and District-government areas to the same extent as that for commercial, residential, and industrial areas. The status of this program shall be reported in

each Annual Report/Implementation Plan required by Part III.C. and D. of this permit. Information shall be provided as to how the implementation of these procedures will meet the requirements of the Clean Water Act. The implementation of a program to control discharges from Federal and District-government areas is dependent on the active cooperation of all federal agencies responsible for operating and maintaining facilities within the District. The District will continue to pursue partnerships with federal departments and agencies (e.g., National Park Service, Department of Agriculture, Department of Defense, and General Services Administration) responsible for facilities in the District designed to highlight the District's commitment to "lead by example" in managing storm water runoff.

The permittee shall maintain the authority to control all types of discharges into the waters of the District.

## 2. Management Plan for Industrial Facilities

The permittee shall implement a program to monitor and control pollutants in storm water discharged to the D.C. MS4 from Industrial Facilities, pursuant to the requirements in 40 CFR 122.26(d)(2)(iv)(C). These facilities shall include, but are not limited to:

- Private Solid Waste Transfer Stations
- Hazardous Waste Treatment, Disposal, and/or Recovery Plants
- Industrial Facilities subject to SARA or EPCRA Title III
- Industrial Facilities with NPDES Permits
- Industrial facilities with a discharge to the MS4

The permittee shall continue to maintain and update the industrial facilities database. The permittee shall continue to perform or provide on-site assistance/inspections and outreach focused on the development of storm water pollution prevention plans and NPDES permit compliance.

The permittee shall continue to refine and implement procedures to govern the investigation of facilities suspected of contributing pollutants to the MS4, including a review, if applicable, of monitoring data collected by the facility pursuant to its NPDES permit. These procedures shall be submitted as part of each Annual Report/Implementation Plan required by Part III. C. and D. of this permit.

The wet weather screening described in Part IV. C. of this permit includes collecting data on the discharges from industrial

sites. This information shall be used by the permittee in identifying problem industrial categories to better target outreach.

The program to prevent, contain, and respond to spills that may discharge to the MS4 shall continue to be implemented, and a report on this implementation submitted in each Annual Report/Implementation Plan. The spill response program may include a combination of spill response actions by the permittees (and/or another public or private entity).

Progress in developing and carrying out industrial related programs shall be reported in each Annual Report/Implementation Plan required by Part III.C. and D. of this permit. An explanation shall be provided as to how the implementation of these procedures will meet the requirements of the Clean Water Act.

The permittee shall continue to implement the prohibition against illicit discharges, control spills, and prohibit dumping.

### 3. Management Plan for Construction Sites

The permittee shall continue implementation of the Program that addresses the discharge of pollutants from construction sites. An evaluation shall be made and reported in the Annual Report/Implementation Plan to determine if the existing practice meets the requirements given in 40 CFR 122.26(d)(2)(iv)(A) and (D). The permittee shall continue the review and approval process of the sediment and erosion control plans under this program. The permittee shall submit its inspection and enforcement procedures to EPA in the Annual Report/Implementation Plan. The permittee shall continue with regular construction site inspections. When a violation of local erosion and sediment control ordinances occurs, the permittee shall follow existing enforcement procedures and practices. The permittee shall continue with educational measures for construction site operators (Part III.A.12 of this permit) that consist, at a minimum, of providing guidance manuals and technical publications.

Progress in developing and carrying out the above construction related programs shall be reported in each Annual Report/Implementation Plan required by Part III.D. and E. of this permit. An explanation shall be provided as to how the implementation of these procedures will meet the requirements of the Clean Water Act. An explanation shall be provided as to how the implementation of these procedures, particularly with regard to District "waivers and exemptions", will meet the requirements of the Clean Water Act.

Public streets, roads, and highways shall be operated and maintained in a manner to reduce the discharge of pollutants in accordance with the SWMP requirements. Standard road repair practices shall include limiting the amount of soil disturbance to the immediate area under repair. Storm water conveyances which are denuded should be resodded or reseeded and mulched for rapid revegetation, and these areas should have effective erosion control until stabilized. The program shall establish procedures that address spill prevention, material management practices, and good housekeeping measures at all equipment and maintenance shops that support maintenance activities.

#### 4. Flood Control Projects

Potential impacts on the water quality and the ability of the receiving water to support beneficial uses shall be assessed for all flood management projects. The feasibility of retrofitting existing flood control devices to provide additional pollutant removal from storm water shall be evaluated.

The above assessment, mapping program, and feasibility studies shall be reported in the Annual Report/Implementation Plan (Part III.C. and D.). The flood control measures necessary to meet the requirements of the Clean Water Act shall also be submitted with these Reports/Plans.

All development proposed in flood plains shall be reviewed by the District to ensure that the impacts on the water quality of receiving water bodies has been properly addressed. Information regarding impervious surface area located in the flood plains shall be used (in conjunction with other environmental indicators) as a planning tool. The District shall collect data on the percentage of impervious surface area located in flood plain boundaries for all proposed development after the effective date of this permit. The District shall collect similar data for existing development in flood plain areas, in accordance with the mapping program and other activities designed to improve water quality. Critical unmapped areas shall be prioritized by the District with an emphasis on developed and developing acreage. Reports of this work shall be summarized in the Annual Report/Implementation Plan. An explanation shall be provided as to how the implementation of these procedures will meet the requirements of the Clean Water Act

#### 5. Control of Pollutants from Municipal Landfills or Other Municipal Waste Facilities

The permittee shall implement a program to identify measures to evaluate, inspect, enforce, and monitor to reduce pollutants in storm water discharges from facilities that handle municipal waste, including sewage sludge, and report the results of this activity in each Annual Report/Implementation Plan. As part of this program, the permittee shall reduce pollutants in the storm water discharges from District-operated or owned solid waste transfer stations, maintenance and storage yards for waste transportation fleets and equipment, publicly owned treatment works, and sludge application and/or disposal sites which are not covered by an NPDES permit, and report the results of this effort in each Annual Report/Implementation Plan. The permittee shall provide an explanation as to how the implementation of these procedures will meet the requirements of the Clean Water Act for the above facilities.

#### 6. Control Pollutants from Hazardous Waste Sites

The permittee shall implement procedures that provide for monitoring and controlling pollutants in storm water discharges to the MS4 from: hazardous waste recovery, treatment, storage, and disposal facilities; facilities subject to Section 313 of the Emergency Planning and Right-to-Know Act; and any other industrial facility that either the permittee or the Regional Administrator determines is contributing a substantial pollutant loading to the MS4. This work shall be reported in each Annual Report/Implementation Plan.

The permittee shall complete an identification of industrial and high risk runoff facilities and develop procedures to map and record details of the facilities. Procedures to identify, map, and record the high risk facilities shall be completed by the end of this permit term.

The permittee shall implement procedures to govern the investigation of the identified facilities suspected of contributing pollutants to the MS4, including a review, if applicable, of monitoring data collected by the facility pursuant to its NPDES permit. Procedures governing the investigation of identified facilities and the method, schedule, and progress in implementing those procedures shall be submitted as part of each Annual Report/Implementation Plan. An explanation shall be provided as to how the implementation of these procedures will meet the requirements of the Clean Water Act.

#### 7. Pesticide, Herbicide, and Fertilizer Application

The permittee shall continue to control the application of pesticides, fertilizers, and the use of other toxic substances

according to current procedures and practices described in the October 19, 2002, SWMP and regulations. Such controls shall reduce the discharge of pollutants related to the storage and application of pesticides, herbicides, and fertilizers applied by employees or contractors, to public right of ways, parks, and other District property. The permittee shall implement programs to encourage the reduction of the discharge of pollutants related to the application and distribution of pesticides, herbicides, and fertilizers, pursuant to the SWMP dated October 19, 2002.

A report on the implementation of the above application procedures, a history of the improvements in the control of these materials, and an explanation on how these procedures will meet the requirements of the Clean Water Act shall be included in each Annual Report/Implementation Plan.

A screening characterization shall be completed to determine the sources of pesticides, herbicides, and fertilizers that contaminate the storm water runoff. This screening characterization shall be part of the outfall monitoring plan and performed according to that plan's schedule identified in Table 1. Levels of storm water pollution from this runoff at locations within the District shall be used to develop a priority system for control of these pollutants. Procedures for reducing these pollutants shall be developed, implemented, and reported in each Annual Report/Implementation Plan.

#### 8. Deicing Activities

The permittee shall continue to evaluate the use, application and removal of chemical deicers, salt, sand, and/or sand/deicer mixtures in an effort to minimize the impact of these materials on water quality. Techniques available for reducing pollution from deicing salts in snowmelt runoff and runoff from salt storage facilities shall be investigated and implemented. This evaluation shall be made a part of an overall investigation of ways to meet the requirements of the Clean Water Act and reported in each Annual Report/Implementation Plan. In addition, an explanation shall be provided annually as to how the implementation of procedures resulting from this investigative effort will meet the requirements of the Clean Water Act.

#### 9. Snow Removal

The permittee shall implement a program and operating plan to ensure excessive quantities of snow and ice control materials do not enter the District's waterbodies. Progress in implementing the program and plan shall be reported in each Annual Report/Implementation Plan. The District shall avoid snow dumping in areas adjacent to water bodies, wetlands, and areas near public or private drinking water wells which would ultimately



reenter the MS4 system except during a declared Snow Emergency when the foremost concern of snow removal activities is public health and safety.

#### 10. Management Plan to Detect and Remove Illicit Discharges

The permittee shall implement an ongoing program to detect illicit discharges, pursuant to the SWMP dated October 19, 2002. and Part IV.B., of this permit, and prevent improper disposal into the storm sewer system, pursuant to 40 CFR 122.26(d)(2)(iv)(B)(1). The accomplishments of this program shall be reported in each Annual Report/Implementation Plan.

The permittee shall implement a program to prevent illicit discharges, as defined at 40 CFR 122.26(b)(2). However, those discharges listed at 40 CFR 122.26(d)(2)(iv)(B)(1) are to be addressed where such discharges are identified by the permittee as sources of pollutants to the waters of the United States.

The permittee shall ensure the implementation of a program to further reduce the discharge of floatables (e.g. litter and other human-generated solid refuse). The floatables program shall include source controls and, where necessary, structural controls.

The District shall continue to implement the prohibition against the discharge or disposal of used motor vehicle fluids, household hazardous wastes, grass clippings, leaf litter, and animal waste into separate storm sewers. The permittee shall ensure the implementation of programs to collect used motor vehicle fluids (at a minimum oil and anti-freeze) for recycle, reuse, and proper disposal and to collect household hazardous waste materials (including paint, solvents, pesticides, herbicides, and other hazardous materials) for recycle, reuse, or proper disposal. Such programs shall be readily available to all private residents and shall be publicized and promoted on a regular basis, pursuant to the Public Education Plan in this permit at Part III.B.12.

Detection and elimination of illicit discharges shall include, but not be limited to, the following mix of strategies:

- Implementation of an illicit connection detection and enforcement program to perform dry weather flow inspections in target areas;
- Visual inspections of targeted areas; and
- Issuance of fines, tracking and reporting illicit discharges, and reporting progress on stopping targeted illicit discharges, and in appropriate cases, chemical

testing immediately after discovery of an illicit discharge.

The District shall implement an enforcement plan for illicit discharges set forth in the following plan in paragraph 11, Enforcement Plan, of this part of the permit. A justification shall be provided for the control plan in the Annual Report/Implementation Plan in terms of meeting the requirements of the Clean Water Act.

The permittee shall carry out all necessary inspection, surveillance, and monitoring procedures to remedy and prevent illicit discharges. The District shall carry out the necessary monitoring activities with the goal of meeting the requirements of the Clean Water Act. The permittee shall submit an inspection plan, inspection criteria, and documentation regarding protocols and parameters of field screening as a part of each Annual Report/Implementation Plan. The inspection plan shall include a schedule and allocation of resources.

The permittee shall implement procedures to prevent, contain, and respond to spills that may discharge into the MS4. The permittee shall provide for the training of appropriate personnel in spill prevention and response procedures. The implementation of this program shall be reported in each of the Annual Reports/Implementation Plans.

#### 11. Enforcement Plan

The permittee shall implement an enforcement plan for carrying out the objectives of the SWMP dated October 19, 2002. A listing of all violations and enforcement actions shall be used to assess the effectiveness of the Enforcement Program in each Annual Report/Implementation Plan. Enforcement shall be maintained at its current level.

#### 12. Public Education

The permittee shall implement a public education program. There are many components of a storm water public education program required by federal regulations at 40 CFR 122.26. The permittee will address all topics and related audiences including the following requirements:

A household hazardous waste educational and outreach program shall control illicit discharges to the MS-4 as required under Part III.B.10. This permit requires the permittee to implement programs and materials during the term of the permit to inform and educate the public on proper management and disposal of used oil, other automotive fluids, and household chemicals.

A residential and commercial pesticide and fertilizer educational and outreach program shall address the use and application of pesticides and fertilizer under Part III.A.7. This program shall promote the proper use of pesticides, herbicides, and fertilizers through the development and dissemination of either new or existing educational materials.

An industrial facility outreach program shall be implemented as a means of monitoring and controlling pollutants in storm water from industrial facilities as required under Part III.A.2. An industrial facility outreach program should focus on informing industries within the District's watersheds about storm water permitting and pollution prevention plans. This program should also inform industries of the requirement that they develop structural and non-structural control systems, pursuant to regulations at 40 CFR 122.26(d)(2)(iv)(C) and (iv)(A)(5).

A construction site operators education and outreach program shall provide construction site operators with technical guidance documents. The permittee shall continue providing these types of outreach and educational materials.

The permittee shall develop public educational materials in cooperation and coordination with other agencies and organizations in the District with similar responsibilities and goals. Public education materials shall be developed in an easy-to-understand format and at a technical level appropriate for the target audience. Progress reports on public education shall be included in the Annual Report/Implementation Plan. An explanation shall be provided as to how this effort will reduce pollution loadings to meet the requirements of the Clean Water Act.

The permittee shall submit copies of all records and reports to the Martin Luther King, Jr. Public Library, to be kept in a single location for public review. This requirement shall extend at a minimum to all pertinent records and reports required to be filed with EPA.

### **C. Annual SWMP Reporting**

The permittee shall prepare an Annual Report to be submitted on the effective yearly date of the permit for the duration of the permitting cycle. The report shall include the following separate sections:

1. A review of the status of program implementation and compliance (or non-compliance) with all schedules of compliance contained in this permit;
2. A review of monitoring data and any trends in estimated cumulative annual pollutant loadings;

3. An assessment of the effectiveness of controls established by the October 19, 2002, SWMP;
4. An assessment of the projected cost of the October 19, 2002, SWMP and a description of the permittee's budget for existing storm water programs, including an overview of the permittee's financial resources and budget, overall indebtedness and assets, and sources for funds for storm water programs.
5. A summary describing the number and nature of enforcement actions, inspections, and public education programs and installation of control systems;
6. Identification of water quality improvements or degradation through application of a measurable performance standard identified in the first paragraph of Part III.D (Annual SWMP Implementation Plan);
7. Results of storm and water quality modeling, and its use in planning installation of control systems and maintenance and other activities.
8. An assessment of any October 19, 2002, SWMP modifications needed to reduce the discharge of pollutants to meet the requirements given in 40 CFR 122.26(d)(2)(iv).
9. Revisions, if necessary, to the assessments of controls and the fiscal analysis reported in the permit application under 40 CFR 122.26(d)(2)(iv) and (v).
10. A cost benefit and affordability analysis to determine the commitments for the next year;
11. Methodology to assess the effects of the October 19, 2002 Storm Water Management Program (SWMP) in reducing pollution and achieving the requirements of the Clean Water Act and the requirements of 40 CFR 122.26(D)(2)(iv), (v), and (vi);
12. Annual expenditures and budget for the year following each annual report;
13. A summary of commitments for the next year and evaluation of the commitments from the previous year;
14. A summary of the monitoring data for storm water and ambient sampling that is collected in the previous year and the plan, including identification of monitoring locations, to collect additional data for the next year;

The permittee shall sign and certify the Annual Report in accordance with Part VII.F. and include a statement or resolution that the permittee's governing body or agency (or delegated representative) has reviewed or been appraised of the content of the Annual Report. The permittee shall provide a description of the procedure used to meet the above requirement.

**D. ANNUAL SWMP IMPLEMENTATION PLAN**

The permittee shall submit, an Annual SWMP Implementation Plan, which is to be provided to EPA on the effective yearly date of the permit for the duration of the permitting cycle. The Implementation Plan is to analyze in detail the work to be done in each successive one year increment by identifying and evaluating the previous year's efforts based on a cost benefit and affordability analysis. The Plan shall include an established measurable performance standard for each of the MS4 program activities identified in Table 3 of this Permit which will be used for responding to Part III.C.6 of the Annual SWMP Reporting requirement. The basis for each of the performance standards which will be used as tools for evaluating environmental results and determining the success of each MS4 activity listed in the Plan shall be described incorporating, when practicable, an integrated program approach that considers all programs and projects which have a direct as well as an indirect affect on storm water management quantity and quality within the District. The Plan shall also provide an update of the fiscal analysis for each year of the permit as required by 40 CFR 122.26(d)(2)(vi).

Appropriate management officials within the Government of the District of Columbia shall develop and recommend to higher Authorities within the District the level of expenditures necessary for the Annual SWMP Reports and the SWMP Implementation Plans based on a cost benefit analysis and a partitioning of expenditures between the CSOs and storm sewers. If the recommended Report(s)/Plan(s) are not funded by the Mayor, the City Council, the Control Board, and/or Congress, then a written explanation will be provided to EPA and the D.C. Environmental Health Administration (EHA) within 30 days after a decision is reached by higher authorities. A written report on the above requests and decisions will also be incorporated into each Annual Report(s) and Implementation Plan(s). In each submittal, an explanation will indicate why the recommended funding was not approved. Once the SWMP Annual Implementation Plan and SWMP Annual Report are developed by this procedure, failure by the District to carry out the minimum requirements in the Reports or Plans would be a violation of this permit.

Based on the level of funding available and a cost benefit analysis, an evaluation shall be made in each Annual SWMP

Implementation Plan as to the benefit of implementing various types of structural and non-structural controls. The effect of the number and type of annual maintenance, inspections, and other program requirements will also be taken into account. Several alternatives will be considered in searching for the optimum approach. The alternatives will be evaluated in terms of a cost benefit analysis, taking into account the availability of funding and other environmental obligations of the District. Affordability cannot be used as a defense for noncompliance with conditions of this Permit.

Each Annual SWMP Report and SWMP Implementation Plan may be revised with written approval by EPA. The revised Report or Plan will become effective after its approval.

Failure to submit an Annual SWMP Report and/or Annual SWMP Implementation Plan, according to the signatory requirements in Part VII.F. and by the deadlines identified in Table 1, is a violation of this permit.

In reviewing any submittal identified in Table 1, EPA shall approve or disapprove each submittal. If EPA disapproves any submittal, EPA shall provide comments to the permittee. The permittee shall address such comments in writing within thirty (30) days of receipt of the disapproval from EPA. If EPA determines that the permittee has not adequately addressed the disapproval/comments, EPA may revise that submittal or portions of that submittal. Such revision by EPA is effective thirty (30) days from receipt by the permittee. Once approved by EPA, or in the event of EPA disapproval, as revised by EPA, each submittal shall be an enforceable element of this permit.

#### **E. SWMP UPGRADE**

The permittee shall develop an Upgraded SWMP based on the findings presented in each of the Annual SWMP Reports, and Annual SWMP Implementation Plans submitted during the permitting cycle. All the improvements and modifications to the District's existing SWMP dated October 19, 2002, shall be made in the Upgraded SWMP to be submitted six months prior to the expiration date of the permit. The Upgraded SWMP shall define the goals of the SWMP and provide an analysis to assure EPA that these goals will be achieved according to the schedule to be included in the Upgraded Plan. The Upgraded SWMP shall define what has to be done to meet the requirements of the Clean Water Act and a schedule for accomplishing these tasks.

One of the purposes of the Updated SWMP is to develop a master plan pursuant to 40 CFR 122.26(d)(2)(iv)(A) to determine

the structural and source measures to reduce pollutants from runoff. Such control systems shall include those given in the SWMP dated October 19, 2002.

**F. LEGAL AUTHORITY AND RESOURCES**

The permittee shall ensure legal authority exists to control discharges to and from the Municipal Separate Storm Sewer System (MS4). Any changes/deficiencies in Legal Authority shall be given in each Annual Report/Implementation Plan. The legal authority may be a combination of statute, ordinance, permit, certification, contract, order, or inter-jurisdictional agreements with existing legal authority to:

1. Prohibit illicit discharges to the municipal separate storm sewer;
2. Control the discharge of spills and the dumping or disposal of materials other than storm water into the MS4;
3. Require compliance with conditions in ordinances, permits, certifications, contracts, or orders;
4. Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance with NPDES permit conditions;
5. Carry out adequate enforcement actions, including fines, penalties, orders, and development of compliance schedules for storm water dischargers pursuant to 40 CFR 122.26(d)(2)(C).
6. Monitor and control pollutants in storm water discharges to municipal storm sewers from industrial facilities and other sources (pursuant to the above regulations) that the permittee determines are contributing a substantial pollutant loading to the municipal storm system.
7. Search out unpermitted discharges, require that they apply for NPDES permits, and take appropriate enforcement actions.

The permittee shall provide adequate finances, staff, equipment, and support capabilities to implement the existing Storm Water Management Program (SWMP) dated October 19, 2002 and the Upgraded SWMP to be developed in accordance with the compliance schedule set forth in Table I.

**PART IV. MONITORING AND REPORTING REQUIREMENTS**

**A. STORM EVENT DISCHARGES**

The permittee shall implement a wet-weather monitoring program for the Municipal Separate Storm Sewer System (MS4) to provide data necessary to assess and report the effectiveness and adequacy of control measures implemented under the Storm Water Management Program (SWMP) dated October 19, 2002; estimate annual cumulative pollutant loadings from the MS4 subwatershed monitored for that particular year; estimate and report the event mean concentrations and seasonal pollutants in discharges from major outfalls; identify and prioritize portions of the MS4 requiring additional controls; and identify water quality improvements or degradation. The sampling plan being implemented by the permittee shall be consistent with the monitoring requirements at 40 CFR 122.26 (d)(2)(iii).

The permittee is responsible for conducting any additional monitoring necessary to accurately characterize the quality and quantity of pollutants discharged from the municipal separate storm sewer system. Improvement in the quality of discharges from the MS4 will be assessed based on the monitoring information required by this Part of the permit, plus any additional monitoring conducted by the permittee.

#### 1. Representative Monitoring

The permittee shall monitor and provide an Outfall Discharge Monitoring Report (refer to the schedule in Table I, Part III.A) of representative outfalls, internal sampling stations, and/or instream monitoring locations to characterize the quality of storm water discharges from the Municipal Separate Storm Sewer System (MS4). The sampling plan being implemented by the permittee shall be consistent with the monitoring requirements at 40 CFR 122.26 (d) (2) (iii). Table 4 shows the required parameters and their monitoring frequency.

TABLE 4  
Monitoring Requirements

Parameter*	Monitoring Frequency *
pH	3/year
temperature	3/year
total ammonia nitrogen, organic nitrogen, and total nitrogen	3/year
volatile organic compounds	3/year
acid extractable compounds	3/year



base/neutral extractable compounds	3/year
pesticides/PCBs	3/year
metals, cyanide, and phenols	3/year
conventional pollutants	3/year
hardness	3/year

\* Refer to Discharge Monitoring Report dated April 19, 2002 for a listing of parameters being monitored. Monitoring frequency shall be at least three times per year at a minimum.

TABLE 5  
Representative Monitoring Outfall Locations

A. Anacostia River Sub Watershed Monitoring Sites
1. Stickfoot Sewer (Suitland Parkway)-2400 block of Martin Luther King, Jr. Ave., SE, near Metro bus entrance.
2. O St. Storm Water Pump Station - 125 O St., 125 O SE-just outside front gate at O St. Pump Station
3. Anacostia High School/Anacostia Recreation Center - corner of 17 <sup>th</sup> St. and Minnesota Ave. SE
4. Gallatin & 14 <sup>th</sup> St.,NE-across from the intersection of 14 <sup>th</sup> St. and Gallatin St. in a large outfall
5. Varnum and 19 <sup>th</sup> Place,NE-2100 Block of Varnum St.
6. Nash Run-intersection of Anacostia Drive and Polk St.,NE.
7. East Capitol St.-200 Block of Oklahoma Ave.,NE.
8. Ft. Lincoln-Newtown BMP-in the brush along the side of New York Ave. West (coming into city) after the bridge.
9. Hickey run-33rd and V Streets, NE.

B. Rock Creek Subwatershed Monitoring Sites
1. Walter Reed (Fort Stevens Drive)
2. Military Road and Beach Drive
3. Soapstone Creek (Connecticut Avenue and Ablemarle Street)
4. Melvin Hazen Valley Branch (Melvin Hazen Park and Quebec Street)
5. Klinge Valley Creek (Devonshire Place and 30 <sup>th</sup> Street)
6. Normanstone Creek (Normanstone Drive and Normanstone Parkway)

C. Potomac River Subwatershed Monitoring Sites
1. Battery Kemble Creek-49th and Hawthorne Streets, NW.
2. Foundary Branch-at Van Ness and Upton Streets, NW in the park.
3. Dalecarlia Tributary-Van Ness Street and Dalecarlia Parkway.
4. Oxon Run-Mississippi Avenue and 15 <sup>th</sup> Street, SE
5. Tidal Basin-17th Street and Constitution Avenue, NW
6. Washington Ship Channel-Washington Marina parking lot, SW
7. C and O Canal-Potomac Avenue and Foxhall Road, NW

One of the subwatersheds listed in Table 5 along with their associated MS4 monitoring stations shall be selected for yearly sampling in accordance with the District's current monitoring program and reassessed every third year utilizing the watershed approach recommended by the EPA. The current watershed based monitoring approach which is on-going for rotating the MS4 stations continues to be the Anacostia River in calendar years 2005 and 2008, Rock Creek in calendar year 2006, and the Potomac River in calendar years 2004 and 2007. All changes to the above MS4 monitoring stations and/or sites for any reason shall be considered a major modification to the permit subject to the reopener clause.

## 2. Storm Event Data

In addition to the parameters listed above, the permittee shall maintain records of the date and duration (in hours) of the storm events sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; the duration (in hours) between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and a calculated flow estimate of the total volume (in gallons) and nature of the discharge sampled.

## 3. Sample Type, Collection, and Analysis

The following requirements apply only to samples collected for Part IV.A.1. - Representative Monitoring.

a. For discharges from holding ponds or other impoundments with a retention period greater than 24 hours, (estimated by dividing the volume of the detention pond by the estimated volume of water discharged during the 24 hours previous to the time that the sample is collected) a minimum of one grab sample may be taken for pH, temperature, cyanide, oil and grease, fecal coliform,

fecal streptococcus, total phenols, residual chlorine, and (at the permittee's option) volatile organics. For all other parameters, data shall be reported for weighted composite samples of the entire event of the discharge pursuant to 40 CFR 122.21(g)(7).

b. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Composite samples may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge, with each aliquot being separated by a minimum period of fifteen minutes.

c. Analysis and collection of samples shall be done in accordance with the methods specified at 40 CFR Part 136.

#### 4. Sampling Waiver

Grab samples taken during the first two hours of discharge shall be used for the analysis of pH, temperature, cyanide, oil and grease, fecal coliform, fecal streptococcus, total phenols, residual chlorine, and (at the permittee's option) volatile organics.

When a discharger is unable to collect samples due to adverse climatic conditions, the discharger must submit in lieu of sampling data a description of why samples could not be collected, including available documentation of the event.

Adverse climatic conditions which may prohibit the collection of samples includes weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

### **B. DRY WEATHER MONITORING**

#### 1. Dry Weather Screening Program

The permittee shall continue ongoing efforts to detect the presence of illicit connections and improper discharges to the MS4 pursuant to the District SWMP dated October 19, 2002. All sewersheds (but not necessarily all outfalls in those sewersheds) of the MS4 must be screened at least once during the permit term. The screening shall be sufficient to estimate the frequency and volume of dry weather discharges and their environmental impact.

#### 2. Screening Procedures

Screening may be developed and/or modified based on experience gained during actual field screening activities and need not conform to the protocol at 40 CFR 122.26(d)(1)(iv)(D). A description of the protocol actually used shall be provided in each Annual Report with a justification for its use. The procedures described in the October 19, 2002 SWMP shall be used as guidance.

### 3. Follow-up on Dry Weather Screening Results

The permittee shall continue to implement a program to locate and eliminate suspected sources of illicit connections and improper disposal identified during dry weather screening activities, and report the results of that implementation in each Annual Report.

Follow-up activities may be prioritized on the basis of:

- a. magnitude and nature of the suspected discharge;
- b. sensitivity of the receiving water; and
- c. other relevant factors.

### **C. WET WEATHER SCREENING PROGRAM**

The permittee shall implement a program to identify, investigate, and address areas within its jurisdiction that may be contributing excessive levels of pollutants to the MS4. The Wet Weather Outfall Monitoring Program in the District's October 19, 2002 SWMP shall include the above Wet Weather Screening Program.

As part of the Wet Weather Screening Program, the permittee shall:

- a. screen the Municipal Separate Storm Sewer System, in accordance with existing procedures identified in the SWMP dated October 19, 2002 at least once during the permit term.
- b. specify the sampling and non-sampling techniques (such as observations or quantitative methods), to be used for initial screening and follow-up purposes. For samples collected for screening purposes only, sample collection and analysis need not, pursuant to 40 CFR 122.26 (1)(d)(iv)(D), conform to the requirements of 40 CFR Part 136.

### **PART V. STORM WATER MODEL**

The permittee shall report all progress made in developing a Storm Water Model and Geographical Information System (GIS) to EPA on an annual basis as an attachment to each

Annual Report/Implementation Plan in Part III.C. and D.

## **PART VI. HICKEY RUN**

Monitoring for oil and grease at the Hickey Run MS4 site identified in Table 5.A of this Permit shall be performed on a rotating basis in the same year as the other Anacostia River MS4 locations identified in the Table are sampled using the procedures and methodology described and outlined in the Permit's Monitoring Program. To determine the effectiveness and performance of the planned Hickey Run BMP discussed below, the permittee shall provide in the Annual Report for EPA review and approval a detailed post construction BMP monitoring plan of sampling and protocol requirements. The results of the BMP monitoring and BMP performance in addressing the requirements of the Hickey Run TMDL shall be presented in the Annual Discharge Monitoring Report required by this Permit when the Anacostia River MS4 monitoring stations are sampled. In the event, monitoring station THRO1 downstream on Hickey Run shows violations for oil and grease (above water quality standard criterion of 10mg/l), the Hickey Run MS4 site and BMP shall be sampled in accordance with the Permit's Monitoring Program on an annual basis rather than every third year under the current watershed based monitoring program until monitoring shows remedial actions effective to achieve compliance with the TMDL.

The effluent limits applicable to the Hickey Run Outfalls consistent with the TMDL WLAs consist of the BMPs set forth in the Upgraded SWMP and the narrative effluent limits set forth above.

The permittee shall continue to use their best efforts to negotiate an agreement with all parties to construct a multi purpose BMP for ensuring compliance with the Hickey Run TMDL document to the maximum extent practicable at this location and have it operational and ready for monitoring its effectiveness during the permitting cycle. The permittee shall inform EPA of changes to the above through Annual Reports and Implementation Plans required by the Permit. The final Hickey Run BMP Compliance Plan and the sampling program component for monitoring the effectiveness and performance of the BMP shall be submitted to EPA for approval prior to the sampling of the BMP being initiated.

## **PART VII STANDARD PERMIT CONDITIONS FOR NPDES PERMITS**

### **A. DUTY TO COMPLY**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and may result in an enforcement action; permit

termination, revocation and reissuance, or modification; and denial of a permit renewal application.

**B. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS**

The Clean Water Act provides any person who violates any permit condition or limitation implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act, or any permit condition or limitation implementing of such section, and any person who violates any Order issued by EPA under Section 301(a) of the Act, shall be subject to a civil penalty not to exceed \$32,500 per day for each violation, and to an action for appropriate relief including a permanent or temporary injunction.

Any person who negligently violates Section 301, 302, 305, 307, 308, 318, or 405 of the Clean Water Act, any permit condition or limitation implementing any such section, shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of such violation, or by imprisonment for not more than 3 years, or by both. Any person who knowingly violates any permit condition or limitation implementing Section 301, 302, 305, 307, 308, 318, or 405 of the Clean Water Act, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000, or by imprisonment of not more than 15 years, or by both.

**C. DUTY TO MITIGATE**

The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

**D. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

1. Violation of any terms or conditions of this permit;
2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information newly acquired by the Agency, including but not limited to the results of the studies, planning, or monitoring described and/or required by this permit;

5. Material and substantial facility modifications, additions, and/or expansions;

6. Any anticipated change in the facility discharge, including any new significant industrial discharge or changes in the quantity or quality of existing industrial discharges that will result in new or increased discharges of pollutants; or

7. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

8. The effluent limitations are based on the District of Columbia's water quality standards in accordance with Clean Water Act. In the event of a revision of the District of Columbia's water quality standards this permit may be modified by EPA to reflect this revision.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition. When a permit is modified, only conditions subject to modification are reopened.

#### **E. CIVIL AND CRIMINAL LIABILITY**

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

#### **F. SIGNATORY REQUIREMENTS**

All Discharge Monitoring Reports, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or that this permit requires be maintained by the permittee, shall be signed by:

1. For a municipality: State, Federal, or other public agency: by either a principal executive officer or ranking elected official; or

a. a duly authorized representative of that person. A person is a duly authorized representative only if:

b. The authorization is made in writing by a person described above and submitted to the Director.

c. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly



authorized representative may thus be either a named individual or any individual occupying a named position).

d. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new notice satisfying the requirements of this paragraph must be submitted to the Director prior or together with any reports, information, or applications to be signed by an authorized representative.

**G. OIL AND HAZARDOUS SUBSTANCE LIABILITY**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

**H. DISTRICT LAWS**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable District law or regulation identified in Chapter 2 of the SWMP dated October 19, 2002. In cases of "exemptions and waivers" under District law, Federal law and regulation shall be applicable.

**I. PROPERTY RIGHTS**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

**J. SEVERABILITY**

The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**K. TRANSFER OF PERMIT**

In the event of any change in ownership or control of facilities from which the authorized discharge emanates, the permit may be transferred to another person if:

1. The current permittee notifies the EPA, in writing of the proposed transfer at least 30 days in advance of the proposed transfer date;

2. The notice includes a written agreement, between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

3. The EPA does not notify the current permittee and the new permittee of intent to modify, revoke and reissue, or terminate the permit and require that a new application be submitted.

**L. CONSTRUCTION AUTHORIZATION**

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

**M. HISTORIC PRESERVATION**

During the design stage of any project by the Government of the District of Columbia within the scope of this permit that may include ground disturbance, new construction, or demolition of a structure, the Government of the District of Columbia shall notify the Historic Preservation liaison and provide the liaison planning documents for the proposed undertaking. The documents shall include project location; scope of work or conditions; photograph of the area/areas to be impacted and the methods and techniques for accomplishing the undertaking. Depending on the complexity of the undertaking, sketches, plans and specifications shall also be submitted for review. The documentation will enable the liaison to assess the applicability of compliance procedures associated with Section 106 of the National Historic Preservation Act. Among the steps in the process are included:

a. The determination of the presence or absence of significant historic properties (architectural, historic or prehistoric). This can include the evaluation of standing structures and the determination of the need for an archaeological survey of the project area.

b. The evaluation of these properties in terms of their eligibility for nomination to the National Register of Historic Places.

c. The determination of the effect that the proposed undertaking will have on these properties.

d. The development of mitigating measures in conjunction with any anticipated effects.

All such evaluations and determinations will be presented to the Government of the District of Columbia for their concurrence.

If an alternate Historic Preservation procedure is approved by EPA in writing during the term of this permit, the alternate procedure will become effective after its approval.

**N. ENDANGERED SPECIES**

The U.S. Fish and Wildlife Service (FWS) has indicated that Hay's Spring Amphipod, a Federally listed endangered species, and the bald eagle, a Federally listed threatened species, occur at several locations near, or in, the District of Columbia. The National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) has indicated that the endangered shortnose sturgeon occurs in the Potomac River drainage and may occur within the District of Columbia. The FWS and NOAA Fisheries indicate that at the present time there is no evidence that the ongoing storm water discharges covered by this permit are adversely affecting these Federally listed species. Storm water discharges, construction, or any other activity that adversely affects a Federally listed endangered or threatened species are not authorized under the terms and conditions of this permit.

The monitoring required by this permit will allow further evaluation of potential effects on these threatened and endangered species once monitoring data has been collected and analyzed. EPA requires that the permittee submit to NOAA Fisheries at the same time it submits to EPA each Annual Outfall Discharge Monitoring Report of the monitoring data which will be used by EPA and NOAA Fisheries to further assess effects on endangered or threatened species. If these data indicate it is appropriate, requirements of this NPDES permit may be modified to prevent adverse impacts on habitats of endangered and threatened species.

The above referenced annual Report of monitoring data is required under this permit to be sent on an annual basis to:

The United States Environmental Protection Agency  
Region III (3WP13)  
Water Protection Division  
1650 Arch Streets  
Philadelphia, Pennsylvania 19103-2029

National Marine Fisheries Service  
Protected Resource Division  
One Blackburn Drive  
Gloucester, Massachusetts 01930-2298  
Attn: Ms. Julie Crocker

**O. TOXIC POLLUTANTS**

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, the permittee shall comply with such standard to the maximum extent practicable or prohibition even if the permit has not yet been modified to comply with the requirement.

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic standards prohibitions, even if the permit has not yet been modified to incorporate the requirement.

**P. Reopener Clause for Permits**

The permit may be modified or revoked and reissued, to incorporate any applicable effluent standard or limitation issued or approved under Sections 301, 304, or 307 of the Clean Water Act, and any other applicable provision as provided by Chesapeake Bay Agreement of 2000 based on water quality considerations, and if the effluent standard or limitation so issued or approved:

a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit: or

b. Controls any pollutant not limited in the permit.  
The permit, as modified or reissued under this paragraph, shall also contain any other requirements of the Act then applicable.

c. The permit may be modified, or revoked and reissued to incorporate additional controls that are necessary to ensure that the permit effluent limits are consistent with any applicable TMDL WLA allocated to the discharge of pollutants from the MS4.

This permit may also be reopened, modified, or revoked and reissued as specified in 40 C.F.R. Parts 122.44(c), 122.62, 122.63, 122.64, and 124.5.

**Q. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in

advance but no longer than the permit expiration date. In the event that a timely and complete reapplication has been submitted and the Director is unable through no fault of the permittee, to issue a new permit before the expiration date of this permit, the terms and conditions of this permit are automatically continued and remain fully effective and enforceable.

## **PART VIII. MONITORING AND RECORDS**

### **A. REPRESENTATIVE SAMPLING**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit. Monitoring points shall not be changed except through permit modification.

### **B. FLOW MEASUREMENTS**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device.

### **C. MONITORING PROCEDURES**

1) Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedure have been specified in the permit.

2) PCBs have been identified in the contaminated sediments of the Anacostia River and in airborne particular matter deposited within the District of Columbia. The Permittee shall continue to use Method 608 for PCB monitoring. In the event that EPA approves a test method for compliance monitoring purposes of measuring PCB concentrations in storm water with a minimum level of less than 1.0 ug/L, EPA reserves the right to modify the Permit to require the Permittee to use such EPA approved test method in place of Method 608.

### **D. PENALTIES FOR TAMPERING**

The Clean Water Act provides that any person who falsifies or knowingly renders inaccurate, any monitoring device, required device, or method required to be maintained under this permit shall

upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**E. REPORTING OF MONITORING RESULTS**

Monitoring results must be reported annually on a Discharge Monitoring Report (DMR) form (EPA No. 3320-1). Monitoring results obtained during the previous year shall be summarized and reported on a DMR form postmarked no later than the effective date of the permit of the following year. Duplicate copies of DMR's signed and certified as required by Part VI.F., shall be submitted to the United States Environmental Protection Agency Region III, and the District of Columbia's Department of Health at the following addresses:

U.S. EPA Region III(3WP13)	District of Columbia Government
Water Protection Division	Department of Health
NPDES DMRS	Environmental Health Administration
1650 Arch Street	5 <sup>th</sup> Floor/51 N. Street, N.E.
Philadelphia, PA 19103-2029	Washington, D.C. 20002

**F. ADDITIONAL MONITORING BY THE PERMITTEE**

If the permittee monitors (for the purposes of this permit) any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the annual Discharge Monitoring Report (DMR) forms. Such frequency shall also be indicated.

**G. RETENTION OF RECORDS**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

**H. RECORD CONTENTS**

Records of monitoring information shall include:

1. The date, exact place, time and methods of sampling or measurements:
2. The individual(s) who performed the sampling or measurements;

3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

**I. INSPECTION AND ENTRY**

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises at reasonable times where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), processes, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**PART IX OTHER APPLICABLE PROVISIONS**

**A. Waivers and Exemptions**

This permit does not authorize the discharge of any pollutant from the MS4 which arises from or is based on any of the various existing "waivers and exemptions" that may otherwise apply and are not consistent with the Federal Clean Water Act and other pertinent guidance, policies, and regulations. This narrative prohibition on the applicability of such waivers and exemptions extends to any activity that would otherwise be authorized under District law but which impedes the reduction or control of pollutants through the use of BMPs to the maximum extent practicable and/or prevents compliance with the narrative effluent limits of this Permit. Any such discharge not otherwise authorized may constitute a violation of this permit.

**B. TMDL WLA Implementation Plans and Compliance Monitoring**

In addition to the duty to comply with the narrative effluent limits in Part I.D.3 of this Permit, the permittee shall demonstrate compliance as described in this Part and in Part IV, Monitoring and Reporting Requirements. In accordance with the

schedule identified in Part III.A. Compliance Schedule and Table 1, Permittee shall further submit implementation plans to reduce discharges consistent with any applicable EPA-approved waste load allocation (WLA) component of any established Total Maximum Daily Loadings (TMDL). An applicable TMDL WLA for this Permit means any TMDL established on or before the effective date of this Permit for a receiving stream, segment of a stream, or other waterbody within the District of Columbia to which the MS4 system discharges, and for which the MS4 receives a WLA, for purposes of achieving compliance with applicable requirements under the Clean Water Act.

EPA has identified all applicable TMDL WLAs and the associated reductions from current estimated loadings as described in Appendix A to the Fact Sheet. EPA provides the following list for informational purposes only: Upper and Lower Anacostia River Biochemical Oxygen Demand TMDL (50 per cent reduction); the Upper and Lower Anacostia River Total Suspended Solids TMDL (77 per cent reduction); Upper and Lower Anacostia River, Watts Branch, Fort Dupont Creek, Fort Chaplin Tributary, Fort Davis Tributary, Fort Stanton Tributary, Hickey Run, Nash Run, Popes Branch, and Texas Avenue Tributary Fecal Coliform Bacteria TMDL (27-90)per cent reduction); and the Anacostia River, Fort Chaplin Tributary, Fort Davis Tributary, Fort Dupont Creek, Fort Stanton Tributary, Hickey Run, Nash Run, Popes Branch, Texas Avenue Tributary, and Watts Branch Organics and Metals TMDL (0-98 per cent reduction). The same implementation procedures will apply to the approved TMDL WLAs for Rock Creek which includes the Upper and Lower Rock Creek Metals (0-86 per cent reduction subject to adjustment for the margin of safety); Rock Creek Fecal Coliform Bacteria (95 per cent reduction); and Rock Creek Tributary Organics for Broad Branch, Dumbarton Oaks, Fenwick Branch, Klinge Valley, Luzon Branch, Melvin Hazen, Normanstone Creek, Pinehurst Branch, Piney Branch, Portal Branch, and Soapstone Creek (0-99.9 per cent reduction subject to adjustment for the margin of safety).

Demonstration of compliance (as specified in Parts IV and VIII of the Permit) will be calculated using the procedures (i.e., Simple Method) identified in the Upgraded SWMP dated October 19, 2002, unless specified otherwise by EPA, and will be reported by comparing the monitoring data for that pollutant to the approved pollutant specific WLAs and its associated storm water load reductions for the receiving waterbody as specified in the Fact Sheet.

The permittee shall report to EPA the results of this analysis in accordance with the compliance schedule in Part III.A and Table 1 of this permit. If the analysis concludes that the MS4 discharge monitored for that specific pollutant is causing or contributing to an exceedance of the criteria under the approved pollutant-specific WLAs, the permittee shall develop a TMDL implementation



Plan and schedule in accordance with the compliance schedule in Part III.A and Table 1 of this permit. The Plan shall consist of documenting all previous and on-going efforts at achieving the specific pollutant reductions identified in the TMDL WLA and further demonstrating additional controls sufficient to achieve those reductions through an established performance based benchmark. This benchmark shall be applied against annual projected performance standards for purposes of completing the final implementation plan when determining measurable progress to achieve adequate reduction. EPA reserves the right after a review and approval of each Plan to modify this permit for purposes of requiring additional numeric and/or narrative effluent controls on the discharge of pollutants from the MS4. EPA shall make the results of any such determination(s) in writing available to the Permittee and other interested persons including, but not limited to members of the District of Columbia MS4 Task Force. Upon approval by EPA, the TMDL implementation plan(s) shall be incorporated into the upgraded SWMP in accordance with the compliance schedule in Part III.A (Table I) and Part III.E (SWMP Upgrade) of this Permit.

The Permittee shall submit to EPA the applicable TMDL Implementation Plans for the Anacostia River TMDLs within six months and for the Rock Creek TMDLs twelve months after the effective issuance date of this Permit.

#### C. Compliance Monitoring with Water Quality-Based Effluent Limitations

The Permit is water quality based and as such is written to impose controls (in Part I of this Permit) sufficient to ensure compliance with applicable District of Columbia water quality standards. EPA reserves the right to modify the Permit as needed, when monitoring results (as set forth in Parts IV and VIII of the permit) show that the current BMP controls required by this permit are not sufficient to ensure compliance with the applicable water quality standards.

#### **PART X. PERMIT DEFINITIONS**

"Best Management Practices" ("BMP") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the United States. BMP also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"CSMP" means Construction Site Management Plan

"CWA" means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control

Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. (6-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

"Director" means the Regional Administrator or an authorized representative.

"Discharge" for the purpose of this permit, unless indicated otherwise, refers to discharges from the Municipal Separate Storm Sewer System (MS4).

"Maximum Extent Practicable (MEP) Standard" means a technology based level of pollution reduction achieved through the use of a combination of non structural and/or structural best management practices (BMPs) for controlling the quantity as well as the quality of a particular pollutant or pollutants in storm water at their sources before entering the MS4 system.

"Flow-weighted composite sample" means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

"Goal" means the end results the permittee is to strive to achieve.

"Guidance" means assistance in achieving a goal.

"Illicit connection" means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

"Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from clear water flows, roof drainage, water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation waters, springs, footing drains, lawn watering, individual resident car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, fire fighting activities, and similar types of activities.

"Internal Sampling Station" means a monitoring site which is located within the Municipal Separate Storm Sewer System (MS4) upstream of an outfall pipe which discharges storm water directly into a receiving waterbody.

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.

"Land application unit" means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

"MS4" refers to either a Large or Medium Municipal Separate Storm Sewer System.

"Large or Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

(i) located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or (ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or (iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

"Municipal Separate Storm Sewer" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of wastes, storm water, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian Tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

"Permittee" refers to the Government of the District of Columbia and all subordinate District and independent agencies directly accountable and responsible to the City Council and Mayor as authorized under the Storm Water Permit Compliance Amendment Act of 2000 and any subsequent amendments for administering, coordinating, implementing, and managing storm water for MS4 activities within the boundaries of the District of Columbia.

"Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch,

channel, substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

"Pollutant of concern" means a pollutant in an MS4 discharge that may cause or contribute to the violation of a water quality criterion for that pollutant downstream from the discharge.

"Significant spills" includes, but is not limited to: releases of tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

"RSAT" is an acronym for Rapid Stream Assessment Techniques.

"SWMP" is an acronym for Storm Water Management Plan/Program. For purposes of this permit, the term includes all storm water activities described in the District's SWMP dated October 19, 2002, and all other documents and related correspondences embodied under the tier of the program document from the previous Permit and to be generated from this Permit.

"Section 313 water priority chemical" means a chemical or chemical categories which: 1) are listed at 40 CFR 372.65 pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, also titled the Emergency Planning and Community Right-to-Know Act of 1986; 2) are present at or above threshold levels at a facility subject to SARA Title III, Section 313 reporting requirements; and 3) that meet at least one of the following criteria: i) are listed in Appendix D of 40 CFR 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria.

"Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous oil or hazardous substances in excess of reportable quantities under section 311 of the CWA (see 40 CFR 110.10 and CFR 117.21) or section 102 of CERCLA (see 40 CFR 302.4).

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Total Maximum Daily Load (TMDL) Units" means for purposes of this Permit, the waste load allocations (WLAs) are expressed in pollutant pounds of a total average annual load unless specifically identified otherwise in an EPA approved TMDL report covered under the Permit.

"Time-weighted composite" means a composite consisting of a mixture of equal volume aliquots collected at a constant time interval.

"Upgraded Storm Water Management Program (SWMP)" is a modified and improved SWMP based on the existing SWMP and on information in each of the Annual Reports/Implementation Plans/Discharge Monitoring Reports. The goal of the Upgraded SWMP is to describe the list of activities that need to be done to meet the requirements of the Clean Water Act, an explanation as to why these activities will meet the Clean Water Act requirements, and a schedule for those activities, taking into account the cost benefit and affordability analysis to be done in each of the Annual Implementation Plans.

"Waste pile" means any non-containerized accumulation of solid, nonflowing waste.

"Waters of the United States" is identified at 40 CFR 122.2.